

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

NOTICE OF PROPOSED RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 19. OFFICE OF ADMINISTRATIVE HEARINGS

Editor's Note: The following Notice of Proposed Rulemaking was exempt from Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 629.)

[R14-27]

PREAMBLE

- 1. Articles, Parts or Sections Affected (as applicable):** R2-19-122
Rulemaking Action: Amend
- 2. Citations to the agency's statutory rulemaking authority to include the authorization statute (general) and the implementing statute (specific):**
Authorizing Statute: A.R.S. § 41-1092.01(C)(4)
Implementing Statute: A.R.S. §§ 41-1092, 41-1092.11; A.R.S. §§ 12-904, 12-909
- 3. Citations to all related notices published in the *Register* as specified in R1-1-409(A) that pertain to the record in the proposed rule:**
Notice of Rulemaking Docket Opening: 20 A.A.R. 613, March 7, 2014 (*in this issue*)
- 4. The agency's contact person who can answer questions about the rulemaking:**
Name: Cliff J. Vanell
Address: Office of Administrative Hearings
1400 W. Washington, Suite 101
Phoenix, AZ 85007
Telephone: (602) 542-9853
Fax: (602) 542-9859
E-mail: cliff.vanell@azoah.com
Website: www.azoah.com
- 5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**
Prior to July 1, 2013, A.R.S. § 12-904(A) provided for judicial review of an administrative decision by the filing of a complaint with the Superior Court. A.R.S. § 12-904(B) provides that a party file a notice of the action with the Office of Administrative Hearings, and that the Office thereupon transmit the record. In furtherance of A.R.S. § 12-904(A) and (B), R2-19-122 directed parties to file a copy of the complaint filed with the Superior Court with the Office within 10 days of the filing of the complaint. Effective July 1, 2013, A.R.S. § 12-904 substituted "notice of appeal" for "complaint." The Office proposes to amend R2-19-122(A) to substitute "notice of appeal" for "complaint" to conform to the statutory change. The Office also proposes to distinguish an appeal resulting from an administrative hearing held before the Office from that of an agency, board or commission acting as an administrative law judge. Additionally, the Office proposes to amend R2-19-122(B) to distinguish a transcript of an appeal resulting from an administrative hearing held before the Office from that of an agency, board or commission acting as an administrative law judge.
- 6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data**

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underlying each study, and any analysis of each study and other supporting material:

N/A

7. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:

N/A

8. The preliminary summary of the economic, small business, and consumer impact:

The economic impact of the amended rule will not differ significantly from that projected in the economic impact statement submitted in December 1998, when the rule was submitted.

9. The agency's contact person who can answer questions about the economic, small business, and consumer impact statement:

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1400 W. Washington, Suite 101
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Website: www.azoah.com

10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Written comments may be submitted until 5:00 p.m., April 23, 2014.

An oral comment proceeding has been scheduled as follows:

Date: April 30, 2014
Time: 9:00 a.m.
Location: Office of Administrative Hearings
1400 W. Washington, Suite 101
Phoenix, AZ 85007

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

There are no matters prescribed by state applicable to the agency or to any specific rule or class or rules.

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

The rule does not require a permit;

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and is so, citation to the statutory authority to exceed the requirements of federal law:

No federal law is applicable to the rule;

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

No person has submitted an analysis to the agency that compares the rule's impact on the competitiveness of business in this state to the impact on business in other states.

12. List of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

N/A

13. The full text of the rule follows:

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TITLE 2. ADMINISTRATION

CHAPTER 19. OFFICE OF ADMINISTRATIVE HEARINGS

ARTICLE 1. PREHEARING AND HEARING PROCEDURES

Section

R2-19-122. Notice of Judicial Appeal; Transmitting the Transcript

ARTICLE 1. PREHEARING AND HEARING PROCEDURES

R2-19-122. Notice of Judicial Appeal; Transmitting the Transcript

- A.** Notification to the Office. Within 10 days of filing a ~~complaint for judicial review of a final administrative decision based on or resulting from a recommended decision of an administrative law judge~~ notice of appeal of an agency action resulting from an administrative hearing before the Office, the party shall file a copy of the ~~complaint~~ notice of appeal with the Office. The Office shall then transmit the record to the Superior Court.
- B.** Transcript. A party requesting a transcript of an administrative hearing before the Office shall arrange for transcription at the party's expense. The Office shall make a copy of its audio taped record available to the transcriber. The party arranging for transcription shall deliver the transcript, certified by the transcriber under oath to be a true and accurate transcription of the audio taped record, to the Office, together with one unbound copy.